



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/533,342	03/23/2000	Colin D. Nayler	E0871	9949

7590 10/29/2003

Mark D. Saralino
Renner Otto Boisselle & Sklar P.L.L.
1621 Euclid Ave., 19th Floor
Cleveland, OH 44115

EXAMINER

KUMAR, PANKAJ

ART UNIT	PAPER NUMBER
----------	--------------

2631

5

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/533,342

Applicant(s)

NAYLER, COLIN D.

Examiner

Pankaj Kumar

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 is/are allowed.
- 6) ☒ Claim(s) 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 23 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant's argument filed 8/25/2003 has been fully considered and it is persuasive with respect to claims 1-20 based on both gain control circuits working from only one envelope signal which is developed from only one amplifier. Hence claims 1-20 are allowed. Such a limitation is not in claims 21 or 22 and hence they are still rejected.
2. Applicant's argument regarding the Korn reference is persuasive.
3. Applicant's arguments filed 8/25/2003 have been fully considered but they are not persuasive with respect to the Faugeron reference for claims 21-22.
4. Applicant argues that the proposed modification of duplicating amplifier would result in two amplifiers while the claim only calls for one amplifier. This is not persuasive since claims 21 or 22 do not have gain control circuits operating based on only one amplifier.
5. Applicant argues that switch 7 in Faugeron does not determine whether the envelope signal represents a frequency modulated carrier or an amplitude modulated carrier. This is not persuasive. If switch 7 is set to position A, switch 7 is determining the envelope signal represents an amplitude modulated carrier and not a frequency modulated carrier. If switch 7 is set to position B, switch 7 is determining the envelope signal represents a frequency modulated carrier and not an amplitude modulated carrier.
6. Applicant takes issue with office's interpretation of frequency modulation in the reference anticipating pulse position modulation in applicant's claim although applicant also says that this is not germane. Applicant argues that FM is modulating by varying a frequency base band onto a fixed frequency carrier while pulse position modulation is changing a position of a

Art Unit: 2631

pulse. This is not persuasive since when a signal is varying its frequency, the signals start cycle pulse position is at different increments of time from one cycle to another cycle (also other points of the cycle besides for the starting point are also at different increments of time from one cycle to another cycle) and hence the position during one pulse cycle is different than its position during another pulse cycle.

7. Also, it has been held that a recitation with respect to-the manner in which a claimed apparatus is intended to be employed (i.e. in this case using applicant's pulse position modulated signal verses using reference's frequency modulated signal) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

8. Applicant also argues that FM using certain elements and implies that pulse position modulation does not use those elements. This is also not persuasive since the applicant has not claimed that these elements do not exist for pulse position modulation.

Response to Amendment

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2631

10. Claims 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim USPN 6049361.

11. As per claim 21, Faugeron teaches a network receiver configured for receiving a modulated carrier signal from another network transceiver via a network medium, the network receiver comprising:

- a) an input amplifier for amplifying a received modulated carrier signal according to one of a plurality of amplifier gain settings and outputting an amplified carrier signal (Kim fig. 1: inherent for tuner 102 to also be an amplifier especially when it is being controlled through a gain control circuit);
- b) a first gain control circuit for providing a first amplifier gain setting based on a carrier signal modulated in accordance with a first modulation method (Kim fig. 3: 214);
- c) a second gain control circuit for providing a second amplifier gain setting based on a carrier signal modulated in accordance with a second modulation method (Kim fig. 3: 225);
- d) a selection circuit for identifying whether the carrier signal is modulated in accordance with the first modulation method or the second modulation method (Kim fig. 3: 230), and for providing a gain control signal to the input amplifier in accordance therewith (Kim fig. 3: "AGC signal to tuner").

12. As per claim 22, Kim teaches the network receiver of claim 21, wherein the selection circuit includes envelop detection circuitry for detecting the duration of a power pulse in the envelope signal (Kim: signal duration is inherently detected based on its power when the signal is output – the duration is from the time the signal started to be over a particular power threshold to the time it stopped being over a particular power threshold).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faugeron.
15. See prior action for details

Allowable Subject Matter

16. Claims 1-20 are allowed based on arguments.
17. Claims 23-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
18. See prior action for details.

Art Unit: 2631

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Gotou 6311047, Nakayama 6320913

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pankaj Kumar whose telephone number is (703) 305-0194. The examiner can normally be reached on Mon, Tues, Thurs and Fri after 8AM to after 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad H. Ghayour can be reached on (703) 306-3034. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



PK